FILED
CLERK U.S. DISTRICT COURT
DISTRICT OF DELAWARE
2005 AUG -4 AM 10: 16

IN THE UNITED STATED DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

UNITED STATES OF AMERICA, Plaintiff, v. THE STATE OF DELAWARE, THE DELAWARE DEPARTMENT OF PUBLIC SAFETY, and THE DELAWARE DIVISION OF STATE POLICE, Defendants.	)	Civil Action No. 01-020-KAJ

MEMORANDUM ORDER

This matter has been the subject of a partial summary judgment opinion (Docket Item ["D.I."] 262; the "Opinion") and post-trial findings of fact and conclusions of law on liability (D.I. 305; the "Findings and Conclusions"). It now is before me again on the defendants' motion (D.I. 318; the "Motion") for an order establishing that a 70% ALERT cutoff score defines the lower bound of the pool of individuals who are presumptively entitled to relief. The Motion is denied.

I need not repeat the background information previously detailed in the Opinion and the Findings and Conclusions. Suffice it to say that, in the Findings and Conclusions, I determined that an ALERT score band of 66% to 70% corresponds to the minimum qualifications necessary to perform the entry-level Delaware State Trooper job. (D.I. 305 at p. 61, ¶¶ 17-18.) Despite that express holding, the defendants seek a ruling that the upper end of that band represents the minimum score. Their request is disconcerting, to say the least. One would think, if one wanted

to select a single, lowest acceptable score in light of my earlier ruling, that the word "minimum," by definition, would lead one to look at the lower end of the stated range. Since that apparently was not clear, I make it so now. Based upon my earlier Findings and Conclusions, the single, minimum score on the ALERT corresponding to the minimum qualifications necessary to perform the entry-level Delaware State Trooper job is 66%. More detailed reasoning for this holding, if such were needed, is found in the plaintiff's memorandum in opposition to the Motion, which reasoning I adopt.

Accordingly, the defendants' Motion (D.I. 318) is hereby DENIED.

UNITED STATES DISTRICT JUDGE

Wilmington, Delaware
August 4, 2005